**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.9869 OF 2005

**14TH JULY, 2006**

BETWEEN

Machina Venkateswara Rao

… Petitioner

vs.

Gram Panchayat, rep. by its Secretary, Yenamalakuduru village, Penamaluru Mandal, Krishna District and others.

… Respondents

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.9869 OF 2005 and
CONTEMPT CASE NO.313 OF 2006

**COMMON ORDER:**

The petitioner claims to be the Secretary and Trustee of Sri Venkateswara Swamy Temple Trust looking after the welfare of the villagers and Dharmathope, which was allegedly dedicated to the welfare of the villagers and being used by petitioner's forefathers for common good. It is alleged that when there was interference in the said property, a suit being O.S.No.117 of 1947 was filed on the file of the Court of the I Additional Subordinate Judge, Vijayawada. The said Court delivered Judgment on 07.03.1951 recording a finding that the land in survey No.160 admeasuring Acs.3.79 cents known as Dharmavaram Chinthalathota is dedicated for public charitable purpose and directed the constitution of Board of Trustees by framing a scheme. In spite of the same, it is alleged that village panchayat constructed office and water tank ignoring the protests of the petitioner. Thereafter, the construction of Sri Venkateswara Swamy Temple was taken up and the villagers obstructed the same. As the Judgment given by the Court was not being implemented and there was regular encroachments, the petitioner approached the revenue authorities for redressal, in vain. It is alleged that the Gram Panchayat

also started making constructions on Dharmathope ignoring the objections raised by the villagers, and therefore, the petitioner filed the present writ petition seeking a writ of Mandamus declaring the action of the Gram Panchayat and revenue officials in interfering with the property of the Dharmathope is illegal and arbitrary and for a direction to them to follow the procedure contemplated under Land Acquisition Act, 1894.

The writ petition was admitted on 27.04.2005. This Court also passed interim orders in W.P.M.P.No.12843 of 2005 directing the respondents not to interfere with the possession of the petitioners in respect of the subject land. The petitioner, therefore, filed C.C.No.313 of 2006 alleging that ignoring the interim orders passed by this Court, the Gram Panchayat with the active connivance of the revenue authorities encroached upon the trust property and bent upon taking constructions on the lands. When the contempt case was called, it was brought to the notice of this Court that Gram Panchayat, Yenamalakuduru village filed application being W.V.M.P.No.1166 of 2006 for vacating the interim order, dated 27.04.2005. Therefore, all the interlocutory matters were listed and at that stage itself, the matter was heard finally and is being disposed of by this common order.

The Panchayat Secretary filed the counter affidavit on behalf of the first respondent. It is stated that the Government of Andhra Pradesh issued orders in G.O.Ms.No.786, dated 06.05.1983, alienating an extent of Acs.2.77 cents in R.S.No.15/3 (old S.R. No.160) of Yanamalakuduru Gram Panchayat and that since 1983 Gram Panchayat is in occupation of the land. It is further stated that a portion of the land was given to Southern Power Distribution Company Limited, for construction of sub-station and the remaining extent of land is in possession of the Gram Panchayat. The right claimed by the petitioner is denied and the allegation that the property endowed to the temple is also denied. It is alleged that the petitioner is trying to encroach upon the land. The petitioner has not filed any reply affidavit denying the counter averments.

Learned counsel for the petitioner submits that the civil Court has already declared the property to be dedicated for charitable purposes and that a scheme is already framed. This submission cannot be accepted. The copy of the Judgment of the civil Court is not enclosed. Secondly, though it is alleged that the petitioner is looking after Sri Venkateswara Swamy Temple and the property known as Dharmathope, no creditworthy material is coming forth nor the same is produced before this Court. In the absence of any material, this Court cannot accept the submission. Along with the counter affidavit, the first respondent has enclosed a copy of G.O.Ms.No.786, dated

06.05.1983. A perusal of the said Government Order would show that on considering the report, dated 16.09.1982, sent by the District Collector, Krishna and the report, dated 13.10.1982 sent by the Commissioner of Land Revenue, the Government directed to alienate the land in R.S.No.15/3, admeasuring Acs.2.77 cents in favour of Gram Panchayat for construction of Panchayat building, veterinary hospital, water tank and public lavatory for ladies without any market value. This would clinchingly show that the petitioner has no right to claim the land. This writ petition is filed making frivolous allegations.

In the contempt case, an allegation is made that even while the interim order passed by this Court on 27.04.2005 directing the respondents not to interfere with the possession in force, the village panchayat occupied the land disobeying the orders of the Court. As pointed out above, the petitioner was never in possession of the land and after alienating the same by the Government, Gram Panchayat alone is in possession of the land. Therefore, the contempt case is misconceived.

In the result, the writ petition and the contempt case are dismissed with costs.

_____

**(V.V.S.RAO,J)**

14.07.2006
pln